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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,534	02/26/2004	Satoshi Hiratsuka	YAMA:065	1207

37013 7590 10/19/2005

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EXAMINER

RUSSELL, CHRISTINA MARIE

ART UNIT PAPER NUMBER

2837

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,534

Applicant(s)

HIRATSUKA ET AL.

Examiner

Christina Russell

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/04 and 12/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. Figure 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by the US patent application publication to Tice et al. (US 2002/0004191).

4. In terms of claim 1, Tice et al. teaches an apparatus for practicing a musical instrument, which inputs model music data, or lessons, into the user's computer over a communication network from a database, which allows the user to display, or view this music data and practice, perform, or record (performance input) their representation of the lesson, and further view an evaluation of their performance. This taught apparatus also provides guidance to the user to help in playing the displayed lessons by providing chord names and audio samples, the ability to control the aspects displayed, such as the amount of measures shown at one time or the section of the lesson the user wishes to play, and even takes out or stores the recorded performance data of the user and places it into a user file for later evaluation, reference or playback (see paragraphs [0002], [0004]-[0007], end of [0053], [0063], [0065], [0082], [0088], beginning of [0094], beginning of [0096], [0101], and [0143]-[0144]).

5. In terms of claim 2 and 3, which combined are very similar to claim 1 (see paragraphs [0002], [0004]-[0007], end of [0053], [0063], [0065], [0082], [0088], beginning of [0094], beginning of [0096], [0101], and [0143]-[0144]), Tice et al. additionally teaches the use of a tone generator, or playback audio system, to play the sample songs as examples and to even play the song files, or performance data of the user. Tice et al. also teaches of a practice mode, or separate musical "rooms" associated with this apparatus, which provides the user with the options of either not entering a practice room and entering a creative room instead and simply playing and reinforcing lessons they have learned and being able to hear the results, or entering a practice room where their performance of lessons are inputted (recorded), stored in a

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student file, and evaluated (see paragraphs [0045], [0065]-[0067], beginning of [0093], and [0109]-[0110]).

6. In terms of claim 4, which is very similar to claim 1, (see paragraphs [0002], [0004]-[0007], end of [0053], [0063], [0065], [0082], [0088], beginning of [0094], beginning of [0096], [0101], and [0143]-[0144]), except for the apparatus taking the form of a computer program, Tice et al. teaches such a computer program, whose instructions are executed by the user's personal computer (see paragraphs [0040] and [0041]).

7. In terms of claim 5, which is very similar to the combination of claims 2 and 3, (see paragraphs [0002], [0004]-[0007], [0045], end of [0053], [0063], [0065]-[0067], [0082], [0088], beginning of [0093], beginning of [0094], beginning of [0096], [0101], [0109]-[0110], and [0143]-[0144]), except for the apparatus taking the form of a computer program, Tice et al. teaches such a computer program, whose instructions are executed by the user's personal computer (see paragraphs [0040] and [0041]).

Conclusion

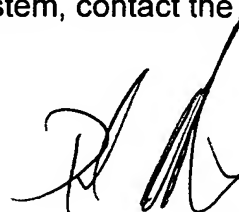
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The US patents to Owen (5,585,583), Fukata (6,323,411), Haruyama (5,902,948), Tsai et al. (6,346,666) and Yamaura et al. (6,287,124), and the US patent application publication to Funaki (US 2003/0167903).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR
10/06/2005



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